

ASSEMBLY BILL

No. 1772

Introduced by Assembly Member Beth Gaines

February 3, 2016

An act to amend Sections 647 and 803 of, and to repeal and add Section 647.7 of, the Penal Code, relating to disorderly conduct.

LEGISLATIVE COUNSEL'S DIGEST

AB 1772, as introduced, Beth Gaines. Disorderly conduct.

Existing law establishes the offense of disorderly conduct to include, among other acts, specified invasions of privacy and the act of, while loitering, prowling, or wandering upon the private property of another, at any time, peeking in the door or window of any inhabited building or structure, without visible or lawful business with the owner or occupant. Except as specified, existing law makes those offenses punishable by imprisonment in a county jail not exceeding 6 months, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would instead provide that, except as specified below, those offenses are punishable by imprisonment in a county jail for not more than 6 months, by a fine of \$1,000, or by both that fine and imprisonment, or punishable by imprisonment in a county jail for 16 months, or 2 or 3 years, by a fine of \$2,000, or by both that fine and imprisonment.

Existing law makes a second or subsequent violation of the invasion of privacy provisions described above punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment. Existing law authorizes the same punishments if the victim of one of those invasions of privacy was a minor at the time of the offense.

This bill would instead provide that, except as specified below, a second or subsequent violation of the invasion of privacy provisions described above is punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment, or punishable by imprisonment in a county jail for 3, 5, or 7 years, by a fine not exceeding \$5,000, or by both that fine and imprisonment. The bill would authorize the same punishments if the victim of one of those invasions of privacy was a minor at the time of the offense.

Existing law provides that, except as specified, every person who, having been convicted of violating the peeking or invasion of privacy provisions described above, commits a second or subsequent violation of those provisions, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$1,000, or by both that fine and imprisonment.

This bill would provide that, except as specified below, those violations are punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$2,000, or by both that fine and imprisonment, or punishable by imprisonment in a county jail for 3, 5, or 7 years, by a fine not exceeding \$5,000, or by both that fine and imprisonment.

Existing law provides that every person who, having been convicted of violating the peeking or invasion of privacy provisions described above, uses a concealed camcorder, motion picture camera, or photographic camera of any type, to secretly videotape, film, photograph, or record by electronic means, another, identifiable person who may be in a state of full or partial undress, for the purpose of viewing the body of, or the undergarments worn by, that other person, without the consent or knowledge of that other person, in the interior of a bedroom, bathroom, changing room, fitting room, dressing room, or tanning booth, or the interior of any other area in which that other person has a reasonable expectation of privacy, with the intent to invade the privacy of that other person, regardless of whether it is a first, second, or subsequent violation of that specific invasion of privacy provision, shall be punished by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$5,000, or by both that fine and imprisonment.

This bill would provide that those violations are punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding \$5,000, or by both that fine and imprisonment, or punishable

by imprisonment in a county jail for 3, 5, or 7 years, by a fine not exceeding \$10,000, or by both that fine and imprisonment.

The bill would also make conforming changes.

By increasing the penalties for existing crimes, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Section 647 of the Penal Code is amended to
2 read:

3 647. ~~Except as provided in subdivision (l), every~~ Every person
4 who commits any of the following acts is guilty of disorderly
5 conduct, a misdemeanor:

6 (a) Who solicits anyone to engage in or who engages in lewd
7 or dissolute conduct in any public place or in any place open to
8 the public or exposed to public view.

9 (b) Who solicits or who agrees to engage in or who engages in
10 any act of prostitution. A person agrees to engage in an act of
11 prostitution when, with specific intent to so engage, he or she
12 manifests an acceptance of an offer or solicitation to so engage,
13 regardless of whether the offer or solicitation was made by a person
14 who also possessed the specific intent to engage in prostitution.
15 No agreement to engage in an act of prostitution shall constitute
16 a violation of this subdivision unless some act, in addition to the
17 agreement, is done within this state in furtherance of the
18 commission of an act of prostitution by the person agreeing to
19 engage in that act. As used in this subdivision, "prostitution"
20 includes any lewd act between persons for money or other
21 consideration.

22 (c) Who accosts other persons in any public place or in any
23 place open to the public for the purpose of begging or soliciting
24 alms.

1 (d) Who loiters in or about any toilet open to the public for the
2 purpose of engaging in or soliciting any lewd or lascivious or any
3 unlawful act.

4 (e) Who lodges in any building, structure, vehicle, or place,
5 whether public or private, without the permission of the owner or
6 person entitled to the possession or in control of it.

7 (f) Who is found in any public place under the influence of
8 intoxicating liquor, any drug, controlled substance, toluene, or any
9 combination of any intoxicating liquor, drug, controlled substance,
10 or toluene, in a condition that he or she is unable to exercise care
11 for his or her own safety or the safety of others, or by reason of
12 his or her being under the influence of intoxicating liquor, any
13 drug, controlled substance, toluene, or any combination of any
14 intoxicating liquor, drug, or toluene, interferes with or obstructs
15 or prevents the free use of any street, sidewalk, or other public
16 way.

17 (g) When a person has violated subdivision (f), a peace officer,
18 if he or she is reasonably able to do so, shall place the person, or
19 cause him or her to be placed, in civil protective custody. The
20 person shall be taken to a facility, designated pursuant to Section
21 5170 of the Welfare and Institutions Code, for the 72-hour
22 treatment and evaluation of inebriates. A peace officer may place
23 a person in civil protective custody with that kind and degree of
24 force which would be lawful were he or she effecting an arrest for
25 a misdemeanor without a warrant. A person who has been placed
26 in civil protective custody shall not thereafter be subject to any
27 criminal prosecution or juvenile court proceeding based on the
28 facts giving rise to this placement. This subdivision shall not apply
29 to the following persons:

30 (1) Any person who is under the influence of any drug, or under
31 the combined influence of intoxicating liquor and any drug.

32 (2) Any person who a peace officer has probable cause to believe
33 has committed any felony, or who has committed any misdemeanor
34 in addition to subdivision (f).

35 (3) Any person who a peace officer in good faith believes will
36 attempt escape or will be unreasonably difficult for medical
37 personnel to control.

38 (h) Who loiters, prowls, or wanders upon the private property
39 of another, at any time, without visible or lawful business with the
40 owner or occupant. As used in this subdivision, "loiter" means to

1 delay or linger without a lawful purpose for being on the property
2 and for the purpose of committing a crime as opportunity may be
3 discovered.

4 (i) ~~Who, while loitering, prowling, or wandering upon the private~~
5 ~~property of another, at any time, peeks in the door or window of~~
6 ~~any inhabited building or structure, without visible or lawful~~
7 ~~business with the owner or occupant.~~

8 (j) ~~(1) Any person who looks through a hole or opening, into,~~
9 ~~or otherwise views, by means of any instrumentality, including,~~
10 ~~but not limited to, a periscope, telescope, binoculars, camera,~~
11 ~~motion picture camera, camcorder, or mobile phone, the interior~~
12 ~~of a bedroom, bathroom, changing room, fitting room, dressing~~
13 ~~room, or tanning booth, or the interior of any other area in which~~
14 ~~the occupant has a reasonable expectation of privacy, with the~~
15 ~~intent to invade the privacy of a person or persons inside. This~~
16 ~~subdivision shall not apply to those areas of a private business~~
17 ~~used to count currency or other negotiable instruments.~~

18 ~~(2) Any person who uses a concealed camcorder, motion picture~~
19 ~~camera, or photographic camera of any type, to secretly videotape,~~
20 ~~film, photograph, or record by electronic means, another,~~
21 ~~identifiable person under or through the clothing being worn by~~
22 ~~that other person, for the purpose of viewing the body of, or the~~
23 ~~undergarments worn by, that other person, without the consent or~~
24 ~~knowledge of that other person, with the intent to arouse, appeal~~
25 ~~to, or gratify the lust, passions, or sexual desires of that person and~~
26 ~~invade the privacy of that other person, under circumstances in~~
27 ~~which the other person has a reasonable expectation of privacy.~~

28 ~~(3) (A) Any person who uses a concealed camcorder, motion~~
29 ~~picture camera, or photographic camera of any type, to secretly~~
30 ~~videotape, film, photograph, or record by electronic means, another,~~
31 ~~identifiable person who may be in a state of full or partial undress,~~
32 ~~for the purpose of viewing the body of, or the undergarments worn~~
33 ~~by, that other person, without the consent or knowledge of that~~
34 ~~other person, in the interior of a bedroom, bathroom, changing~~
35 ~~room, fitting room, dressing room, or tanning booth, or the interior~~
36 ~~of any other area in which that other person has a reasonable~~
37 ~~expectation of privacy, with the intent to invade the privacy of that~~
38 ~~other person.~~

39 ~~(B) Neither of the following is a defense to the crime specified~~
40 ~~in this paragraph:~~

1 ~~(i) The defendant was a cohabitant, landlord, tenant, cotenant,~~
2 ~~employer, employee, or business partner or associate of the victim,~~
3 ~~or an agent of any of these.~~

4 ~~(ii) The victim was not in a state of full or partial undress.~~

5 ~~(4) (A) Any person who intentionally distributes the image of~~
6 ~~the intimate body part or parts of another identifiable person, or~~
7 ~~an image of the person depicted engaged in an act of sexual~~
8 ~~intercourse, sodomy, oral copulation, sexual penetration, or an~~
9 ~~image of masturbation by the person depicted or in which the~~
10 ~~person depicted participates, under circumstances in which the~~
11 ~~persons agree or understand that the image shall remain private,~~
12 ~~the person distributing the image knows or should know that~~
13 ~~distribution of the image will cause serious emotional distress, and~~
14 ~~the person depicted suffers that distress.~~

15 ~~(B) A person intentionally distributes an image described in~~
16 ~~subparagraph (A) when he or she personally distributes the image,~~
17 ~~or arranges, specifically requests, or intentionally causes another~~
18 ~~person to distribute that image.~~

19 ~~(C) As used in this paragraph, “intimate body part” means any~~
20 ~~portion of the genitals, the anus and in the case of a female, also~~
21 ~~includes any portion of the breasts below the top of the areola, that~~
22 ~~is either uncovered or clearly visible through clothing.~~

23 ~~(D) It shall not be a violation of this paragraph to distribute an~~
24 ~~image described in subparagraph (A) if any of the following~~
25 ~~applies:~~

26 ~~(i) The distribution is made in the course of reporting an~~
27 ~~unlawful activity.~~

28 ~~(ii) The distribution is made in compliance with a subpoena or~~
29 ~~other court order for use in a legal proceeding.~~

30 ~~(iii) The distribution is made in the course of a lawful public~~
31 ~~proceeding.~~

32 ~~(5) This subdivision shall not preclude punishment under any~~
33 ~~section of law providing for greater punishment.~~

34 ~~(k)~~

35 ~~(i) (1) In any accusatory pleading charging a violation of~~
36 ~~subdivision (b), if the defendant has been once previously convicted~~
37 ~~of a violation of that subdivision, the previous conviction shall be~~
38 ~~charged in the accusatory pleading. If the previous conviction is~~
39 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
40 ~~a court trial, or is admitted by the defendant, the defendant shall~~

1 be imprisoned in a county jail for a period of not less than 45 days
2 and shall not be eligible for release upon completion of sentence,
3 on probation, on parole, on work furlough or work release, or on
4 any other basis until he or she has served a period of not less than
5 45 days in a county jail. In all cases in which probation is granted,
6 the court shall require as a condition thereof that the person be
7 confined in a county jail for at least 45 days. In no event does the
8 court have the power to absolve a person who violates this
9 subdivision from the obligation of spending at least 45 days in
10 confinement in a county jail.

11 ~~In~~

12 (2) *In* any accusatory pleading charging a violation of
13 subdivision (b), if the defendant has been previously convicted
14 two or more times of a violation of that subdivision, each of these
15 previous convictions shall be charged in the accusatory pleading.
16 If two or more of these previous convictions are found to be true
17 by the jury, upon a jury trial, or by the court, upon a court trial, or
18 are admitted by the defendant, the defendant shall be imprisoned
19 in a county jail for a period of not less than 90 days and shall not
20 be eligible for release upon completion of sentence, on probation,
21 on parole, on work furlough or work release, or on any other basis
22 until he or she has served a period of not less than 90 days in a
23 county jail. In all cases in which probation is granted, the court
24 shall require as a condition thereof that the person be confined in
25 a county jail for at least 90 days. In no event does the court have
26 the power to absolve a person who violates this subdivision from
27 the obligation of spending at least 90 days in confinement in a
28 county jail.

29 ~~In~~

30 (3) *In* addition to any punishment prescribed by this section, a
31 court may suspend, for not more than 30 days, the privilege of the
32 person to operate a motor vehicle pursuant to Section 13201.5 of
33 the Vehicle Code for any violation of subdivision (b) that was
34 committed within 1,000 feet of a private residence and with the
35 use of a vehicle. In lieu of the suspension, the court may order a
36 person's privilege to operate a motor vehicle restricted, for not
37 more than six months, to necessary travel to and from the person's
38 place of employment or education. If driving a motor vehicle is
39 necessary to perform the duties of the person's employment, the

1 court may also allow the person to drive in that person's scope of
2 employment.

3 ~~(l) (1) A second or subsequent violation of subdivision (j) is~~
4 ~~punishable by imprisonment in a county jail not exceeding one~~
5 ~~year, or by a fine not exceeding two thousand dollars (\$2,000), or~~
6 ~~by both that fine and imprisonment.~~

7 ~~(2) If the victim of a violation of subdivision (j) was a minor at~~
8 ~~the time of the offense, the violation is punishable by imprisonment~~
9 ~~in a county jail not exceeding one year, or by a fine not exceeding~~
10 ~~two thousand dollars (\$2,000), or by both that fine and~~
11 ~~imprisonment.~~

12 ~~(m)~~

13 ~~(j) (1) If a crime is committed in violation of subdivision (b)~~
14 ~~and the person who was solicited was a minor at the time of the~~
15 ~~offense, and if the defendant knew or should have known that the~~
16 ~~person who was solicited was a minor at the time of the offense,~~
17 ~~the violation is punishable by imprisonment in a county jail for~~
18 ~~not less than two days and not more than one year, or by a fine not~~
19 ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~
20 ~~imprisonment.~~

21 ~~(2) The court may, in unusual cases, when the interests of justice~~
22 ~~are best served, reduce or eliminate the mandatory two days of~~
23 ~~imprisonment in a county jail required by this subdivision. If the~~
24 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
25 ~~the court shall specify the reason on the record.~~

26 SEC. 2. Section 647.7 of the Penal Code is repealed.

27 ~~647.7. (a) In any case in which a person is convicted of~~
28 ~~violating subdivision (i) or (j) of Section 647, the court may require~~
29 ~~counseling as a condition of probation. Any defendant so ordered~~
30 ~~to be placed in a counseling program shall be responsible for~~
31 ~~paying the expense of his or her participation in the counseling~~
32 ~~program as determined by the court. The court shall take into~~
33 ~~consideration the ability of the defendant to pay, and no defendant~~
34 ~~shall be denied probation because of his or her inability to pay.~~

35 ~~(b) Every person who, having been convicted of violating~~
36 ~~subdivision (i) or (j) of Section 647, commits a second or~~
37 ~~subsequent violation of subdivision (i) or (j) of Section 647, shall~~
38 ~~be punished by imprisonment in a county jail not exceeding one~~
39 ~~year, by a fine not exceeding one thousand dollars (\$1,000), or by~~

1 both that fine and imprisonment, except as provided in subdivision
2 (e).

3 ~~(e) Every person who, having been previously convicted of~~
4 ~~violating subdivision (i) or (j) of Section 647, commits a violation~~
5 ~~of paragraph (3) of subdivision (j) of Section 647 regardless of~~
6 ~~whether it is a first, second, or subsequent violation of that~~
7 ~~paragraph, shall be punished by imprisonment in a county jail not~~
8 ~~exceeding one year, by a fine not exceeding five thousand dollars~~
9 ~~(\$5,000), or by both that fine and imprisonment.~~

10 SEC. 3. Section 647.7 is added to the Penal Code, to read:

11 647.7. (a) A person who does either of the following is guilty
12 of disorderly conduct, punishable pursuant to subdivision (b):

13 (1) While loitering, prowling, or wandering upon the private
14 property of another, at any time, peeks in the door or window of
15 any inhabited building or structure, without visible or lawful
16 business with the owner or occupant.

17 (2) (A) Looks through a hole or opening, into, or otherwise
18 views, by means of any instrumentality, including, but not limited
19 to, a periscope, telescope, binoculars, camera, motion picture
20 camera, camcorder, or mobile telephone, the interior of a bedroom,
21 bathroom, changing room, fitting room, dressing room, or tanning
22 booth, or the interior of any other area in which the occupant has
23 a reasonable expectation of privacy, with the intent to invade the
24 privacy of a person or persons inside. This paragraph does not
25 apply to those areas of a private business used to count currency
26 or other negotiable instruments.

27 (B) Uses a concealed camcorder, motion picture camera, or
28 photographic camera of any type, to secretly videotape, film,
29 photograph, or record by electronic means, another, identifiable
30 person under or through the clothing being worn by that other
31 person, for the purpose of viewing the body of, or the
32 undergarments worn by, that other person, without the consent or
33 knowledge of that other person, with the intent to arouse, appeal
34 to, or gratify the lust, passions, or sexual desires of that person and
35 invade the privacy of that other person, under circumstances in
36 which the other person has a reasonable expectation of privacy.

37 (C) (i) Uses a concealed camcorder, motion picture camera, or
38 photographic camera of any type, to secretly videotape, film,
39 photograph, or record by electronic means, another, identifiable
40 person who may be in a state of full or partial undress, for the

1 purpose of viewing the body of, or the undergarments worn by,
2 that other person, without the consent or knowledge of that other
3 person, in the interior of a bedroom, bathroom, changing room,
4 fitting room, dressing room, or tanning booth, or the interior of
5 any other area in which that other person has a reasonable
6 expectation of privacy, with the intent to invade the privacy of that
7 other person.

8 (ii) Neither of the following is a defense to the crime specified
9 in this subparagraph:

10 (I) The defendant was a cohabitant, landlord, tenant, cotenant,
11 employer, employee, or business partner or associate of the victim,
12 or an agent of any of these.

13 (II) The victim was not in a state of full or partial undress.

14 (D) (i) Intentionally distributes the image of the intimate body
15 part or parts of another identifiable person, or an image of the
16 person depicted engaged in an act of sexual intercourse, sodomy,
17 oral copulation, sexual penetration, or an image of masturbation
18 by the person depicted or in which the person depicted participates,
19 under circumstances in which the persons agree or understand that
20 the image shall remain private, the person distributing the image
21 knows or should know that distribution of the image will cause
22 serious emotional distress, and the person depicted suffers that
23 distress.

24 (ii) A person intentionally distributes an image described in
25 clause (i) when he or she personally distributes the image, or
26 arranges, specifically requests, or intentionally causes another
27 person to distribute that image.

28 (iii) As used in this subparagraph, “intimate body part” means
29 any portion of the genitals, the anus and in the case of a female,
30 also includes any portion of the breasts below the top of the areola,
31 that is either uncovered or clearly visible through clothing.

32 (iv) It is not a violation of this subparagraph to distribute an
33 image described in clause (i) if any of the following applies:

34 (I) The distribution is made in the course of reporting an
35 unlawful activity.

36 (II) The distribution is made in compliance with a subpoena or
37 other court order for use in a legal proceeding.

38 (III) The distribution is made in the course of a lawful public
39 proceeding.

1 (E) This paragraph does not preclude punishment under any
2 section of law providing for greater punishment.

3 (b) (1) Except as otherwise specified in this subdivision, a
4 violation of subdivision (a) is punishable by imprisonment in a
5 county jail for not more than six months, by a fine of one thousand
6 dollars (\$1,000), or by both that fine and imprisonment, or
7 punishable by imprisonment pursuant to subdivision (h) of Section
8 1170, by a fine of two thousand dollars (\$2,000), or by both that
9 fine and imprisonment.

10 (2) If the victim of a violation of paragraph (2) of subdivision
11 (a) was a minor at the time of the offense, the violation is
12 punishable by imprisonment in a county jail not exceeding one
13 year, by a fine not exceeding two thousand dollars (\$2,000), or by
14 both that fine and imprisonment, or punishable by imprisonment
15 pursuant to subdivision (h) of Section 1170 for three, five, or seven
16 years, by a fine not exceeding five thousand dollars (\$5,000), or
17 by both that fine and imprisonment.

18 (3) Except as otherwise provided in paragraph (4), a second or
19 subsequent violation of subdivision (a) is punishable by
20 imprisonment in a county jail not exceeding one year, by a fine
21 not exceeding two thousand dollars (\$2,000), or by both that fine
22 and imprisonment, or punishable by imprisonment pursuant to
23 subdivision (h) of Section 1170 for three, five, or seven years, by
24 a fine not exceeding five thousand dollars (\$5,000), or by both that
25 fine and imprisonment.

26 (4) Every person who, having been previously convicted of
27 violating subdivision (a), commits a violation of subparagraph (C)
28 of paragraph (2) of subdivision (a) regardless of whether it is a
29 first, second, or subsequent violation of that subparagraph, shall
30 be punished by imprisonment in a county jail not exceeding one
31 year, by a fine not exceeding five thousand dollars (\$5,000), or by
32 both that fine and imprisonment, or punished by imprisonment
33 pursuant to subdivision (h) of Section 1170 for three, five, or seven
34 years, by a fine not exceeding ten thousand dollars (\$10,000), or
35 by both that fine and imprisonment.

36 (c) If a person is convicted of violating subdivision (a), the court
37 may require counseling as a condition of probation. Any defendant
38 so ordered to be placed in a counseling program shall be
39 responsible for paying the expense of his or her participation in
40 the counseling program as determined by the court. The court shall

1 take into consideration the ability of the defendant to pay, and no
2 defendant shall be denied probation because of his or her inability
3 to pay.

4 SEC. 4. Section 803 of the Penal Code is amended to read:

5 803. (a) Except as provided in this section, a limitation of time
6 prescribed in this chapter is not tolled or extended for any reason.

7 (b) No time during which prosecution of the same person for
8 the same conduct is pending in a court of this state is a part of a
9 limitation of time prescribed in this chapter.

10 (c) A limitation of time prescribed in this chapter does not
11 commence to run until the discovery of an offense described in
12 this subdivision. This subdivision applies to an offense punishable
13 by imprisonment in the state prison or imprisonment pursuant to
14 subdivision (h) of Section 1170, a material element of which is
15 fraud or breach of a fiduciary obligation, the commission of the
16 crimes of theft or embezzlement upon an elder or dependent adult,
17 or the basis of which is misconduct in office by a public officer,
18 employee, or appointee, including, but not limited to, the following
19 offenses:

20 (1) Grand theft of any type, forgery, falsification of public
21 records, or acceptance of, or asking, receiving, or agreeing to
22 receive, a bribe, by a public official or a public employee,
23 including, but not limited to, a violation of Section 68, 86, or 93.

24 (2) A violation of Section 72, 118, 118a, 132, 134, or 186.10.

25 (3) A violation of Section 25540, of any type, or Section 25541
26 of the Corporations Code.

27 (4) A violation of Section 1090 or 27443 of the Government
28 Code.

29 (5) Felony welfare fraud or Medi-Cal fraud in violation of
30 Section 11483 or 14107 of the Welfare and Institutions Code.

31 (6) Felony insurance fraud in violation of Section 548 or 550
32 of this code or former Section 1871.1, or Section 1871.4, of the
33 Insurance Code.

34 (7) A violation of Section 580, 581, 582, 583, or 584 of the
35 Business and Professions Code.

36 (8) A violation of Section 22430 of the Business and Professions
37 Code.

38 (9) A violation of Section 103800 of the Health and Safety
39 Code.

40 (10) A violation of Section 529a.

1 (11) A violation of subdivision (d) or (e) of Section 368.

2 (d) If the defendant is out of the state when or after the offense
3 is committed, the prosecution may be commenced as provided in
4 Section 804 within the limitations of time prescribed by this
5 chapter, and no time up to a maximum of three years during which
6 the defendant is not within the state shall be a part of those
7 limitations.

8 (e) A limitation of time prescribed in this chapter does not
9 commence to run until the offense has been discovered, or could
10 have reasonably been discovered, with regard to offenses under
11 Division 7 (commencing with Section 13000) of the Water Code,
12 under Chapter 6.5 (commencing with Section 25100) of, Chapter
13 6.7 (commencing with Section 25280) of, or Chapter 6.8
14 (commencing with Section 25300) of, Division 20 of, or Part 4
15 (commencing with Section 41500) of Division 26 of, the Health
16 and Safety Code, or under Section 386, or offenses under Chapter
17 5 (commencing with Section 2000) of Division 2 of, Chapter 9
18 (commencing with Section 4000) of Division 2 of, Section 6126
19 of, Chapter 10 (commencing with Section 7301) of Division 3 of,
20 or Chapter 19.5 (commencing with Section 22440) of Division 8
21 of, the Business and Professions Code.

22 (f) (1) Notwithstanding any other limitation of time described
23 in this chapter, a criminal complaint may be filed within one year
24 of the date of a report to a California law enforcement agency by
25 a person of any age alleging that he or she, while under 18 years
26 of age, was the victim of a crime described in Section 261, 286,
27 288, 288a, 288.5, or 289, or Section 289.5, as enacted by Chapter
28 293 of the Statutes of 1991 relating to penetration by an unknown
29 object.

30 (2) This subdivision applies only if all of the following occur:

31 (A) The limitation period specified in Section 800, 801, or 801.1,
32 whichever is later, has expired.

33 (B) The crime involved substantial sexual conduct, as described
34 in subdivision (b) of Section 1203.066, excluding masturbation
35 that is not mutual.

36 (C) There is independent evidence that corroborates the victim's
37 allegation. If the victim was 21 years of age or older at the time
38 of the report, the independent evidence shall clearly and
39 convincingly corroborate the victim's allegation.

1 (3) No evidence may be used to corroborate the victim's
2 allegation that otherwise would be inadmissible during trial.
3 Independent evidence does not include the opinions of mental
4 health professionals.

5 (4) (A) In a criminal investigation involving any of the crimes
6 listed in paragraph (1) committed against a child, when the
7 applicable limitations period has not expired, that period shall be
8 tolled from the time a party initiates litigation challenging a grand
9 jury subpoena until the end of the litigation, including any
10 associated writ or appellate proceeding, or until the final disclosure
11 of evidence to the investigating or prosecuting agency, if that
12 disclosure is ordered pursuant to the subpoena after the litigation.

13 (B) Nothing in this subdivision affects the definition or
14 applicability of any evidentiary privilege.

15 (C) This subdivision shall not apply if a court finds that the
16 grand jury subpoena was issued or caused to be issued in bad faith.

17 (g) (1) Notwithstanding any other limitation of time described
18 in this chapter, a criminal complaint may be filed within one year
19 of the date on which the identity of the suspect is conclusively
20 established by DNA testing, if both of the following conditions
21 are met:

22 (A) The crime is one that is described in subdivision (c) of
23 Section 290.

24 (B) The offense was committed prior to January 1, 2001, and
25 biological evidence collected in connection with the offense is
26 analyzed for DNA type no later than January 1, 2004, or the offense
27 was committed on or after January 1, 2001, and biological evidence
28 collected in connection with the offense is analyzed for DNA type
29 no later than two years from the date of the offense.

30 (2) For purposes of this section, "DNA" means deoxyribonucleic
31 acid.

32 (h) For any crime, the proof of which depends substantially
33 upon evidence that was seized under a warrant, but which is
34 unavailable to the prosecuting authority under the procedures
35 described in *People v. Superior Court (Laff)* (2001) 25 Cal.4th
36 703, *People v. Superior Court (Bauman & Rose)* (1995) 37
37 Cal.App.4th 1757, or subdivision (c) of Section 1524, relating to
38 claims of evidentiary privilege or attorney work product, the
39 limitation of time prescribed in this chapter shall be tolled from
40 the time of the seizure until final disclosure of the evidence to the

1 prosecuting authority. Nothing in this section otherwise affects
2 the definition or applicability of any evidentiary privilege or
3 attorney work product.

4 (i) Notwithstanding any other limitation of time described in
5 this chapter, a criminal complaint may be filed within one year of
6 the date on which a hidden recording is discovered related to a
7 violation of ~~paragraph (2) or (3) of subdivision (j) of Section 647.~~
8 *subparagraph (B) or (C) of paragraph (2) of subdivision (a) of*
9 *Section 647.7.*

10 (j) Notwithstanding any other limitation of time described in
11 this chapter, if a person flees the scene of an accident that caused
12 death or permanent, serious injury, as defined in subdivision (d)
13 of Section 20001 of the Vehicle Code, a criminal complaint brought
14 pursuant to paragraph (2) of subdivision (b) of Section 20001 of
15 the Vehicle Code may be filed within the applicable time period
16 described in Section 801 or 802 or one year after the person is
17 initially identified by law enforcement as a suspect in the
18 commission of the offense, whichever is later, but in no case later
19 than six years after the commission of the offense.

20 (k) Notwithstanding any other limitation of time described in
21 this chapter, if a person flees the scene of an accident, a criminal
22 complaint brought pursuant to paragraph (1) or (2) of subdivision
23 (c) of Section 192 may be filed within the applicable time period
24 described in Section 801 or 802, or one year after the person is
25 initially identified by law enforcement as a suspect in the
26 commission of that offense, whichever is later, but in no case later
27 than six years after the commission of the offense.

28 (l) A limitation of time prescribed in this chapter does not
29 commence to run until the discovery of an offense involving the
30 offering or giving of a bribe to a public official or public employee,
31 including, but not limited to, a violation of Section 67, 67.5, 85,
32 92, or 165, or Section 35230 or 72530 of the Education Code.

33 SEC. 5. No reimbursement is required by this act pursuant to
34 Section 6 of Article XIII B of the California Constitution because
35 the only costs that may be incurred by a local agency or school
36 district will be incurred because this act creates a new crime or
37 infraction, eliminates a crime or infraction, or changes the penalty
38 for a crime or infraction, within the meaning of Section 17556 of
39 the Government Code, or changes the definition of a crime within

- 1 the meaning of Section 6 of Article XIII B of the California
- 2 Constitution.

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